

ASSEMBLY BILL

No. 818

Introduced by Assembly Member Leslie

February 18, 2005

An act to add Section 56743.5 to the Government Code, and to amend Section 99 of the Revenue and Taxation Code, relating to local agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 818, as introduced, Leslie. Local agencies.

The existing Cortese–Knox–Hertzberg Local Government Reorganization Act of 2000 provides that territory may not be annexed to a city unless it is located in the same county, and unless otherwise provide by the act, territory may not be annexed to a city unless it is contiguous to the city at the time the proposal is initiated.

This bill would state, notwithstanding the above provisions, that upon approval of the local agency formation commission, a city may annex noncontiguous territory of not more than 1,680 acres in area, that is located in the County of Kern, and that constitutes a correctional facility, under specified conditions. This bill would also make a conforming change with respect to provisions that govern property tax allocations in the case of jurisdictional changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 56743.5 is added to the Government
- 2 Code, to read:

1 56743.5. (a) Notwithstanding Section 56741, upon approval
2 of the commission any city may annex noncontiguous territory of
3 not more than 1,680 acres in area, that is located in the County of
4 Kern, and that constitutes a state correctional facility. If, after the
5 completion of the annexation, the state sells that territory or any
6 part thereof, all of the territory which is no longer owned by the
7 state shall cease to be a part of the city which annexed the
8 territory.

9 (b) If territory is annexed pursuant to this section, the city may
10 not annex any territory not owned by the state and not contiguous
11 to the city although that territory is contiguous to the territory
12 annexed pursuant to this section.

13 (c) When territory ceases to be part of the city pursuant to this
14 section, the legislative body of the city shall adopt a resolution
15 confirming the detachment of that territory from the city. The
16 resolution shall describe the detached territory and shall be
17 accompanied by a map indicating the territory. Immediately upon
18 adoption of the resolution, the city clerk shall make any filing
19 provided for by Chapter 8 (commencing with Section 57200) of
20 Part 4 of Division 3.

21 (d) If territory annexed pursuant to this section becomes
22 contiguous to the city, the limitations imposed by this section
23 shall cease to apply.

24 (e) A city may enter into an agreement with any other city
25 under which the city apportions any increase in state subventions
26 resulting from the annexation of territory pursuant to this section.

27 SEC. 2. Section 99 of the Revenue and Taxation Code is
28 amended to read:

29 99. (a) For the purposes of the computations required by this
30 chapter:

31 (1) In the case of a jurisdictional change, other than a city
32 incorporation or a formation of a district as defined in Section
33 2215, the auditor shall adjust the allocation of property tax
34 revenue determined pursuant to Section 96 or 96.1, or the annual
35 tax increment determined pursuant to Section 96.5, for local
36 agencies whose service area or service responsibility would be
37 altered by the jurisdictional change, as determined pursuant to
38 subdivision (b) or (c).

39 (2) In the case of a city incorporation, the auditor shall assign
40 the allocation of property tax revenues determined pursuant to

Section 56810 of the Government Code and the adjustments in tax revenues that may occur pursuant to Section 56815 of the Government Code to the newly formed city or district and shall make the adjustment as determined by Section 56810 in the allocation of property tax revenue determined pursuant to Section 96 or 96.1 for each local agency whose service area or service responsibilities would be altered by the incorporation.

(3) In the case of a formation of a district as defined in Section 2215, the auditor shall assign the allocation of property tax revenues determined pursuant to Section 56810 of the Government Code to the district and shall make the adjustment as determined by Section 56810 in the allocation of property tax revenue determined pursuant to Section 96 or 96.1 for each local agency whose service area or service responsibilities would be altered by the formation.

(b) Upon the filing of an application or a resolution pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code), but prior to the issuance of a certificate of filing, the executive officer shall give notice of the filing to the assessor and auditor of each county within which the territory subject to the jurisdictional change is located. This notice shall specify each local agency whose service area or responsibility will be altered by the jurisdictional change.

(1) (A) The county assessor shall provide to the county auditor, within 30 days of the notice of filing, a report which identifies the assessed valuations for the territory subject to the jurisdictional change and the tax rate area or areas in which the territory exists.

(B) The auditor shall estimate the amount of property tax revenue generated within the territory that is the subject of the jurisdictional change during the current fiscal year.

(2) The auditor shall estimate what proportion of the property tax revenue determined pursuant to paragraph (1) is attributable to each local agency pursuant to Section 96.1 and Section 96.5.

(3) Within 45 days of notice of the filing of an application or resolution, the auditor shall notify the governing body of each local agency whose service area or service responsibility will be altered by the amount of, and allocation factors with respect to,

1 property tax revenue estimated pursuant to paragraph (2) that is
2 subject to a negotiated exchange.

3 (4) Upon receipt of the estimates pursuant to paragraph (3) the
4 local agencies shall commence negotiations to determine the
5 amount of property tax revenues to be exchanged between and
6 among the local agencies. This negotiation period shall not
7 exceed 60 days.

8 The exchange may be limited to an exchange of property tax
9 revenues from the annual tax increment generated in the area
10 subject to the jurisdictional change and attributable to the local
11 agencies whose service area or service responsibilities will be
12 altered by the proposed jurisdictional change. The final exchange
13 resolution shall specify how the annual tax increment shall be
14 allocated in future years.

15 (5) In the event that a jurisdictional change would affect the
16 service area or service responsibility of one or more special
17 districts, the board of supervisors of the county or counties in
18 which the districts are located shall, on behalf of the district or
19 districts, negotiate any exchange of property tax revenues. Prior
20 to entering into negotiation on behalf of a district for the
21 exchange of property tax revenue, the board shall consult with
22 the affected district. The consultation shall include, at a
23 minimum, notification to each member and executive officer of
24 the district board of the pending consultation and provision of
25 adequate opportunity to comment on the negotiation.

26 (6) Notwithstanding any other provision of law, the executive
27 officer shall not issue a certificate of filing pursuant to Section
28 56658 of the Government Code until the local agencies included
29 in the property tax revenue exchange negotiation, within the
30 60-day negotiation period, present resolutions adopted by each
31 such county and city whereby each county and city agrees to
32 accept the exchange of property tax revenues.

33 (7) In the event that the commission modifies the proposal or
34 its resolution of determination, any local agency whose service
35 area or service responsibility would be altered by the proposed
36 jurisdictional change may request, and the executive officer shall
37 grant, 15 days for the affected agencies, pursuant to paragraph
38 (4) to renegotiate an exchange of property tax revenues.
39 Notwithstanding the time period specified in paragraph (4), if the
40 resolutions required pursuant to paragraph (6) are not presented

1 to the executive officer within the 15-day period, all proceedings
2 of the jurisdictional change shall automatically be terminated.

3 (8) In the case of a jurisdictional change that consists of a
4 city's qualified annexation of unincorporated territory, an
5 exchange of property tax revenues between the city and the
6 county shall be determined in accordance with subdivision (e) if
7 that exchange of revenues is not otherwise determined pursuant
8 to either of the following:

9 (A) Negotiations completed within the applicable period or
10 periods as prescribed by this subdivision.

11 (B) A master property tax exchange agreement among those
12 local agencies, as described in subdivision (d).

13 For purposes of this paragraph, a qualified annexation of
14 unincorporated territory means an annexation, as so described,
15 for which proceedings before the relevant local agency formation
16 commission are initiated, as provided in Section 56651 of the
17 Government Code, on or after January 1, 1998, and on or before
18 January 1, ~~2005~~ 2010.

19 (9) No later than the date on which the certificate of
20 completion of the jurisdictional change is recorded with the
21 county recorder, the executive officer shall notify the auditor or
22 auditors of the exchange of property tax revenues and the auditor
23 or auditors shall make the appropriate adjustments as provided in
24 subdivision (a).

25 (c) Whenever a jurisdictional change is not required to be
26 reviewed and approved by a local agency formation commission,
27 the local agencies whose service area or service responsibilities
28 would be altered by the proposed change, shall give notice to the
29 State Board of Equalization and the assessor and auditor of each
30 county within which the territory subject to the jurisdictional
31 change is located. This notice shall specify each local agency
32 whose service area or responsibility will be altered by the
33 jurisdictional change and request the auditor and assessor to
34 make the determinations required pursuant to paragraphs (1) and
35 (2) of subdivision (b). Upon notification by the auditor of the
36 amount of, and allocation factors with respect to, property tax
37 subject to exchange, the local agencies, pursuant to the
38 provisions of paragraphs (4) and (6) of subdivision (b), shall
39 determine the amount of property tax revenues to be exchanged
40 between and among the local agencies. Notwithstanding any

1 other provision of law, no such jurisdictional change shall
2 become effective until each county and city included in these
3 negotiations agrees, by resolution, to accept the negotiated
4 exchange of property tax revenues. The exchange may be limited
5 to an exchange of property tax revenue from the annual tax
6 increment generated in the area subject to the jurisdictional
7 change and attributable to the local agencies whose service area
8 or service responsibilities will be altered by the proposed
9 jurisdictional change. The final exchange resolution shall specify
10 how the annual tax increment shall be allocated in future years.
11 Upon the adoption of the resolutions required pursuant to this
12 section, the adopting agencies shall notify the auditor who shall
13 make the appropriate adjustments as provided in subdivision (a).
14 Adjustments in property tax allocations made as the result of a
15 city or library district withdrawing from a county free library
16 system pursuant to Section 19116 of the Education Code shall be
17 made pursuant to Section 19116 of the Education Code, and this
18 subdivision shall not apply.

19 (d) With respect to adjustments in the allocation of property
20 taxes pursuant to this section, a county and any local agency or
21 agencies within the county may develop and adopt a master
22 property tax transfer agreement. The agreement may be revised
23 from time to time by the parties subject to the agreement.

24 (e) (1) An exchange of property tax revenues that is required
25 by paragraph (8) of subdivision (b) to be determined pursuant to
26 this subdivision shall be determined in accordance with all of the
27 following:

28 (A) The city and the county shall mutually select a third-party
29 consultant to perform a comprehensive, independent fiscal
30 analysis, funded in equal portions by the city and the county, that
31 specifies estimates of all tax revenues that will be derived from
32 the annexed territory and the costs of city and county services
33 with respect to the annexed territory. The analysis shall be
34 completed within a period not to exceed 30 days, and shall be
35 based upon the general plan or adopted plans and policies of the
36 annexing city and the intended uses for the annexed territory. If,
37 upon the completion of the analysis period, no exchange of
38 property tax revenues is agreed upon by the city and the county,
39 subparagraph (B) shall apply.

1 (B) The city and the county shall mutually select a mediator,
2 funded in equal portions by those agencies, to perform mediation
3 for a period of not to exceed 30 days. If, upon the completion of
4 the mediation period, no exchange of property tax revenues is
5 agreed upon by the city and the county, subparagraph (C) shall
6 apply.

7 (C) The city and the county shall mutually select an arbitrator,
8 funded in equal portions by those agencies, to conduct an
9 advisory arbitration with the city and the county for a period of
10 not to exceed 30 days. At the conclusion of this arbitration
11 period, the city and the county shall each present to the arbitrator
12 its last and best offer with respect to the exchange of property tax
13 revenues. The arbitrator shall select one of the offers and
14 recommend that offer to the governing bodies of the city and the
15 county. If the governing body of the city or the county rejects the
16 recommended offer, it shall do so during a public hearing, and
17 shall, at the conclusion of that hearing, make written findings of
18 fact as to why the recommended offer was not accepted.

19 (2) Proceedings under this subdivision shall be concluded no
20 more than 150 days after the auditor provides the notification
21 pursuant to paragraph (3) of subdivision (b), unless one of the
22 periods specified in this subdivision is extended by the mutual
23 agreement of the city and the county. Notwithstanding any other
24 provision of law, except for those conditions that are necessary to
25 implement an exchange of property tax revenues determined
26 pursuant to this subdivision, the local agency formation
27 commission shall not impose any fiscal conditions upon a city's
28 qualified annexation of unincorporated territory that is subject to
29 this subdivision.

30 (f) Except as otherwise provided in subdivision (g), for the
31 purpose of determining the amount of property tax to be
32 allocated in the 1979–80 fiscal year and each fiscal year
33 thereafter for those local agencies that were affected by a
34 jurisdictional change which was filed with the State Board of
35 Equalization after January 1, 1978, but on or before January 1,
36 1979. The local agencies shall determine by resolution the
37 amount of property tax revenues to be exchanged between and
38 among the affected agencies and notify the auditor of the
39 determination.

(g) For the purpose of determining the amount of property tax to be allocated in the 1979–80 fiscal year and each fiscal year thereafter, for a city incorporation that was filed pursuant to Sections 54900 to 54904 after January 1, 1978, but on or before January 1, 1979, the amount of property tax revenue considered to have been received by the jurisdiction for the 1978–79 fiscal year shall be equal to two-thirds of the amount of property tax revenue projected in the final local agency formation commission staff report pertaining to the incorporation multiplied by the proportion that the total amount of property tax revenue received by all jurisdictions within the county for the 1978–79 fiscal year bears to the total amount of property tax revenue received by all jurisdictions within the county for the 1977–78 fiscal year. Except, however, in the event that the final commission report did not specify the amount of property tax revenue projected for that incorporation, the commission shall by October 10, determine pursuant to Section 54790.3 of the Government Code the amount of property tax to be transferred to the city.

The provisions of this subdivision shall also apply to the allocation of property taxes for the 1980–81 fiscal year and each fiscal year thereafter for incorporations approved by the voters in June 1979.

(h) For the purpose of the computations made pursuant to this section, in the case of a district formation that was filed pursuant to Sections 54900 to 54904, inclusive, of the Government Code after January 1, 1978, but before January 1, 1979, the amount of property tax to be allocated to the district for the 1979–80 fiscal year and each fiscal year thereafter shall be determined pursuant to Section 54790.3 of the Government Code.

(i) For the purposes of the computations required by this chapter, in the case of a jurisdictional change, other than a change requiring an adjustment by the auditor pursuant to subdivision (a), the auditor shall adjust the allocation of property tax revenue determined pursuant to Section 96 or 96.1 or its predecessor section, or the annual tax increment determined pursuant to Section 96.5 or its predecessor section, for each local school district, community college district, or county superintendent of schools whose service area or service responsibility would be altered by the jurisdictional change, as determined as follows:

1 (1) The governing body of each district, county superintendent
2 of schools, or county whose service areas or service
3 responsibilities would be altered by the change shall determine
4 the amount of property tax revenues to be exchanged between
5 and among the affected jurisdictions. This determination shall be
6 adopted by each affected jurisdiction by resolution. For the
7 purpose of negotiation, the county auditor shall furnish the
8 parties and the county board of education with an estimate of the
9 property tax revenue subject to negotiation.

10 (2) In the event that the affected jurisdictions are unable to
11 agree, within 60 days after the effective date of the jurisdictional
12 change, and if all the jurisdictions are wholly within one county,
13 the county board of education shall, by resolution, determine the
14 amount of property tax revenue to be exchanged. If the
15 jurisdictions are in more than one county, the State Board of
16 Education shall, by resolution, within 60 days after the effective
17 date of the jurisdictional change, determine the amount of
18 property tax to be exchanged.

19 (3) Upon adoption of any resolution pursuant to this
20 subdivision, the adopting jurisdictions or State Board of
21 Education shall notify the county auditor who shall make the
22 appropriate adjustments as provided in subdivision (a).

23 (j) For purposes of subdivision (i), the annexation by a
24 community college district of territory within a county not
25 previously served by a community college district is an alteration
26 of service area. The community college district and the county
27 shall negotiate the amount, if any, of property tax revenues to be
28 exchanged. In these negotiations, there shall be taken into
29 consideration the amount of revenue received from the timber
30 yield tax and forest reserve receipts by the community college
31 district in the area not previously served. In no event shall the
32 property tax revenue to be exchanged exceed the amount of
33 property tax revenue collected prior to the annexation for the
34 purposes of paying tuition expenses of residents enrolled in the
35 community college district, adjusted each year by the percentage
36 change in population and the percentage change in the cost of
37 living, or per capita personal income, whichever is lower, less the
38 amount of revenue received by the community college district in
39 the annexed area from the timber yield tax and forest reserve
40 receipts.

- 1 (k) At any time after a jurisdictional change is effective, any of
- 2 the local agencies party to the agreement to exchange property
- 3 tax revenue may renegotiate the agreement with respect to the
- 4 current fiscal year or subsequent fiscal years, subject to approval
- 5 by all local agencies affected by the renegotiation.

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